

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

California Code of Regulations (CCR), Title 9, Division 4, Chapter 5

LICENSURE OF RESIDENTIAL ALCOHOLISM OR DRUG ABUSE RECOVERY OR TREATMENT FACILITIES

Subchapter 1. Purpose and Definitions

Article 1. Application and Purpose of Chapter

10500. Application and Purpose of Chapter.

- (a) The regulations in this chapter shall apply to all alcoholism or drug abuse recovery or treatment facilities licensed under Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code.
- (b) The licensee shall comply with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the regulations contained in this chapter.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01 and 11834.21, Health and Safety Code.

Article 2. Definitions

10501. Definitions

- (a) The following general definitions shall apply to terminology used in Chapter 5, except where specifically noted otherwise:
 - (1) "Adolescent" means an individual between fourteen (14) and eighteen (18) years of age, who has not been emancipated pursuant to Part 6 (commencing with Section 7000), Division 11 of the Family Code (operative January 1, 1994).
 - (2) "Adult" means a person who is 18 years of age or older or a minor who has been emancipated pursuant to Part 6 (commencing with Section 7000), Division 11 of the Family Code (operational January 1, 1994).
 - (3) "Adult Facility" means a residential alcoholism or drug abuse recovery or treatment facility, which is designed to serve adults.

- (4) "Alcoholism or Drug Abuse Recovery or Treatment Planning" means the development of a resident specific goal and a continuum of recovery or treatment objectives. It is the licensee's responsibility to provide the activities to facilitate this process.
- (5) "Alcoholism or Drug Abuse Recovery or Treatment Service" means a service which is designed to promote treatment and maintain recovery from alcohol or drug problems which includes one or more of the following: detoxification, group sessions, individual sessions, educational sessions, and/or alcoholism or drug abuse recovery or treatment planning.
- (6) "Alcoholism or Drug Abuse Recovery or Treatment Facility" means any facility, building or group of buildings which is maintained and operated to provide 24-hour residential non-medical alcoholism or drug abuse recovery or treatment services.
- (7) "Authorized Representative" means any person or entity authorized by law to act on behalf of any resident of a residential alcoholism or drug abuse recovery or treatment facility. An authorized representative may be a minor's parent, a legal guardian, a conservator, a public placement agency, or a person granted power of attorney by the resident.
- (8) "Capacity" means the maximum number of residents for whom the facility has been licensed to provide services at any one time.
- (9) "Conviction" means a final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.
- (10) "Day" means calendar day unless otherwise specified.
- (11) "Detoxification Service" means a service designed to support and to assist an individual in the alcohol and/or drug withdrawal process and to explore plans for continued service.
- (12) "Department" means the Department of Alcohol and Drug Programs.
- (13) "Director" means the Director of the Department of Alcohol and Drug Programs.
- (14) "Education Session" means a planned, structured, didactic presentation of information related to alcoholism and alcohol or drug abuse.
- (15) "Evaluator" means any agent or employee of the Department and who is authorized by the director to conduct licensing evaluations on behalf of the Department.

- (16) "Facility" means a residential alcoholism or drug abuse recovery or treatment facility.
- (17) "Facility Administrator" means the individual responsible for the overall management of a residential alcoholism or drug abuse recovery or treatment facility.
- (18) "Goal" means a general statement of the applicant's or licensee's purpose in operating an alcoholism or drug abuse recovery or treatment facility.
- (19) "Group Session" means group interaction that encourages residents to identify and resolve alcohol-and/or drug-related problems, to examine personal attitudes and behavior, and provides support for positive changes in life style and recovery from alcoholism and/or drug abuse.
- (20) "Illicit drug" means any substance defined as a drug in Section 11014, Chapter 1, Division 10 of the Health and Safety Code, except:
 - (A) Drugs or medications prescribed by a physician or other person authorized to prescribe drugs, pursuant to Section 4036, Chapter 9, Division 2 of the Business and Professions Code, and used in the dosage and frequency prescribed; or
 - (B) Over-the-counter drugs or medications used in the dosage and frequency described on the box, bottle, or package insert.
- (21) "Individual Session" means a private interaction between a resident and program staff which focuses on identification and resolution of alcohol-and/or drug related problems, to examine personal attitudes and behavior and other barriers to recovery.
- (22) "Licensee" means the entity identified on the license(s), issued by the Department of Alcohol and Drug Programs, to provide residential alcoholism or drug abuse recovery or treatment services in accordance with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the requirements of this chapter.
- (23) "Objective" means a specific, measurable step which can be evaluated to assess the licensee's progress toward the achievement of the stated goal.
- (24) "Physician" means a person licensed as a physician and surgeon by the Medical Board of California or by the Osteopathic Medical Board of California.
- (25) "Premises" means the land, buildings, or other structures included in the license issued for an alcoholism or drug abuse recovery or treatment facility.

- (26) "Resident" means an individual who resides in and receives services from a residential alcoholism or drug abuse recovery or treatment facility.
- (27) "Residential Alcoholism or Drug Abuse Recovery or Treatment Facility" means any facility, building, or group of buildings which is maintained and operated to provide 24-hour, residential, nonmedical, alcoholism or drug abuse recovery or treatment services.
- (28) "Revocation of License" means a disciplinary action taken by the Department to rescind a license issued pursuant to the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the requirements of this chapter.
- (29) "Substantial Compliance" means the absence of any Class A or Class B deficiencies, as defined in Section 10543.
- (30) "Suspension of License" means a disciplinary action taken by the Department to discontinue program operations, as permitted under the license, for a specified period of time.
- (31) "Volunteer" means uncompensated personnel.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01, 11834.02, and 11834.50, Health and Safety Code.

Subchapter 2. Licensing Process

Article 1. Departmental Authority to License

10502. Departmental Authority to License.

The Department of Alcohol and Drug Programs shall license residential alcoholism or drug abuse recovery or treatment facilities pursuant to the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the requirements of this chapter.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01 and 11834.30, Health and Safety Code.

Article 2. Requirement for Licensure

10505. Requirement for Licensure.

- (a) Except for facilities operated by a State agency, no person, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct, or maintain a facility which provides 24-hour non-medical, residential, alcoholism or drug abuse recovery or treatment services to adults without first obtaining a current, valid license from the Department.
- (b) Except for facilities operated by a State agency, no person, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall hold out, advertise, or represent by any means that it is operating, establishing, managing, conducting, or maintaining a facility which provides 24-hour nonmedical, residential, alcoholism or drug abuse recovery or treatment services to adults without first obtaining a current, valid license from the Department.
- (c) As used in this regulation, "operated by a State agency" shall not include agencies which provide services through a contractual arrangement with a State agency.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01 and 11834.30, Health and Safety Code.

10508. Licensure of Integral Facilities.

(a) The licensee may provide housing and alcoholism or drug abuse recovery or treatment services in the same building or the licensee may house residents in one building and provide services in another building, provided that all of the buildings are:

- (1) Integral components of the same facility,

- (2) Under the control and management of the same licensee, and
 - (3) Licensed as a single facility.
- (b) Multiple facility programs which do not meet the criteria of Subsection (a) of this regulation shall secure independent licenses for each separate facility in accordance with the requirements of this chapter.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.02, and 11834.30, Health and Safety Code.

10510. Prohibition against False Claims Regarding Licensure.

No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding licensure of the facility or any of the services provided by the facility.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.36, Health and Safety Code.

10511. Requirement to Post License.

The licensee shall:

- (a) Post the license in a conspicuous place in the facility, where it can be seen by anyone entering the facility, and
- (b) Make the license available for inspection upon request.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.30, Health and Safety Code.

10512. Alteration of License.

No licensee, officer, or employee of a licensee shall alter a license or disseminate an altered license.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.30, Health and Safety Code.

10513. Adherence to Express Conditions of Licensure.

A licensee shall not operate a facility beyond the conditions and limitations specified on the license.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.10 and 11834.30, Health and Safety Code.

Article 3. Application for Licensure

10514. Who May Apply for Licensure.

Any adult or firm, partnership, association, corporation, county, city, public agency, or other governmental entity may apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, or sexual orientation.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.30 and 11834.50, Health and Safety Code.

10515. How to Obtain Application Information

Application information may be obtained by contacting the Licensing and Certification Branch, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814 [telephone: (916) 322-2911].

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.03, Health and Safety Code.

10516. Content of Application.

- (a) The application and supporting documents shall contain the following:
 - (1) The name or proposed name and address of the facility;
 - (2) The Name and mailing address of the applicant;
 - (A) If the applicant is a partnership, the name and principal business address of each partner, and a copy of the partnership agreement as filed with the county or state, as applicable;
 - (B) If the applicant is a corporation or association, the name, and address of the principal place of business of the corporation or association; the name and title of the officer or employee who acts on behalf of the corporation or association; and a copy of the articles of incorporation and bylaws.
 - (3) The name and address of owner of facility premises if applicant is leasing or renting;

- (4) The maximum number of residents to be served;
 - (5) A description of the demographics of the resident population to be served;
 - (6) The name of the administrator;
 - (7) A plan of operation, as specified in Section 10517(a); and
 - (8) A statement describing the process for safeguarding the personal property of the residents, if it is the licensee's policy to accept such property for safekeeping.
- (b) The applicant shall sign the application.
- (1) If the applicant is a partnership, the application shall be signed by each partner.
 - (2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the individual legally responsible for representing the firm, association, corporation, county, city, public agency, or other governmental entity.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.03 and 11834.09, Health and Safety Code.

10517. Documentation to be Submitted with Application.

- (a) As a condition of licensure, each applicant shall submit to the Department the following documents with the application for licensure:
- (1) A valid and appropriate fire clearance issued from the fire authority having jurisdiction for the area in which the facility is located. The fire clearance shall include a determination of the number of beds for ambulatory residents and for nonambulatory residents in the facility and any restrictions regarding nonambulatory clearances.
 - (2) A current, written, plan of operation, containing at least:
 - (A) A statement of program goals and objectives;
 - (B) An outline of activities and services to be provided by the licensee;
 - (C) A statement of the facility's resident admission policies and procedures;
 - (D) Assurance of nondiscrimination in employment practices and provision of benefits and services on the basis of race, color, national origin,

religion, sex, or mental or physical disabilities, pursuant to Title VI of the Civil Rights Act of 1964 (Section 2000d, Title 42, United States Code), the Rehabilitation Act of 1973 (Section 794, Title 29, United States Code); the Americans with Disabilities Act of 1990 (Section 12132, Title 42, United States Code); Section 11135 of the California Government Code; and Chapter 6 (commencing with Section 10800), Division 4, Title 9 of the California Code of Regulations.

- (E) A copy of the facility's resident admission agreement;
 - (F) A table of the administrative organization of the facility;
 - (G) A staffing plan, job descriptions, and minimum staff qualifications;
 - (H) A sketch of the grounds, showing buildings, driveways, fences, storage areas, pools, gardens, recreation areas, and other space used by residents;
 - (I) Floor plans which describe the dwelling capacity, intended use, and dimensions of the rooms;
 - (J) Sample menus and a schedule for one calendar week, indicating the times of day that meals are to be served; and
 - (K) Consultant and community resources to be utilized by the facility as part of its program.
- (b) If water for human consumption is not from a municipal source, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water for human consumption. The inspection and analysis shall be conducted by the local health department, the State Department of Health Services, or a licensed commercial laboratory. The licensee shall repeat the on-site inspection and water analysis at least once each calendar year.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835.

Reference: Sections 11834.03 and 11834.09, Health and Safety Code.

10518. Where to Submit Completed Applications.

Applicants shall submit completed applications for licensure to the Licensing and Certification Branch, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814.

As used in this regulation, "completed application" means an application for licensure which includes all of the information and documentation required in Sections 10516 and 10517.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
References: Sections 11834.03 and 11834.09, Health and Safety Code.

10522. Departmental Review of Application.

- (a) The Department shall:
 - (1) Review the application for licensure and attached documentation, required pursuant to Section 10517, to determine completeness and compliance with the requirements of this chapter;
 - (2) Complete a site visit to determine the applicant's ability to comply with the requirements of this chapter; and
 - (3) Determine the number of residents for whom a license shall be issued, based on the available living and sleeping space in the proposed facility, and not to exceed the capacity allowed in the fire clearance.
- (b) Within 45 working days of receipt of the application, the Department shall notify the applicant whether the application is complete or incomplete. If the application is incomplete, the Department shall specify the information or documentation which is missing, and the applicant shall have sixty (60) days from the date of the notification to provide the missing information or documentation.

As of June 1992, the actual maximum amount of time between receipt of application and notification of completeness is 45 working days; average time is 30 working days; minimum time is 15 working days.
- (c) Within 120 working days of determining that the application is complete, the Department shall issue to the applicant by certified mail a license, in accordance with Section 10526, or a written notification of denial of licensure, pursuant to Section 10540.
- (d) The Department may terminate the review of an application if:
 - (1) Departmental review determines that the applicant was formerly licensed to operate a community care facility or a residential alcoholism or drug abuse recovery or treatment facility, and the license was administratively suspended or revoked pursuant to Section 11500 et seq. of the Government Code or denied within two (2) years of the date the current application was submitted for review;
 - (2) The applicant fails to provide additional information within sixty (60) days, as required in Subsection (b) of this regulation;

- (3) A fire clearance for the applicant's facility is denied.
- (4) The applicant fails to submit the required fee for licensure or
- (5) The applicant submits a written request to withdraw the application.
- (e) Termination of the review process shall not constitute denial of licensure.
- (f) If the Department terminates a review pursuant to Subsection (d) of this regulation, the Department shall require a new application for licensure.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.09, Health and Safety Code.

10524. Withdrawal of Application.

- (a) The applicant may withdraw an application for licensure by submitting a written request to the Manager of the Licensing and Certification Branch, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814.
- (b) Withdrawal shall not prohibit the Department from taking action to deny an application for licensure.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.30 and 11834.39, Health and Safety Code.

10526. Issuance of License.

The Department shall issue a license to the applicant by certified mail if it determines, based on its review of the application for licensure pursuant to Section 10522, that the applicant is in compliance with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the requirements of this chapter. The license shall specify the maximum number of residents for whom the facility may provide residential alcoholism or drug abuse recovery or treatment services.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01 and 11834.09, Health and Safety Code.

Article 4. Period of Licensure

10527. Requirement to Submit New Application for Licensure.

- (a) A license shall automatically terminate by operation of law whenever the licensee:

- (1) Sells or transfers ownership of the facility, unless the transfer of ownership applies to the transfer of stock when the facility is owned by and licensed as a corporation, and when the transfer of stock does not constitute a majority change in ownership;
 - (2) Voluntarily surrenders the license to the Department;
 - (3) Moves operation of the facility to a new location [except as specified in Subsection (c) of this regulation];
 - (4) Dies (only if the licensee is a sole proprietor);
 - (5) Actually or constructively abandons the facility.
- (b) To prevent a lapse in licensure in the event that operation of the facility is moved to a new location, at least 45 days prior to the move, the licensee shall submit to the Department a new application and documentation, as specified in Section 10517. If the licensee fails to comply with this requirement, the license shall terminate as of the date that operation the facility is moved [except as specified in Subsection (c) of this regulation].
 - (c) To prevent a lapse in licensure in the event that the licensee moves operation of the facility to a new location due to emergency (e.g. fire, flood, vandalism, etc.), within sixty (60) days after the date of the move, the licensee shall submit to the Department an amended application and documentation as specified in Section 10517. If the licensee fails to comply with this requirement, the license shall terminate as of the date on the 61st day after the date of the move.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.40 and 11834.50, Health and Safety Code.

10528. Period of Licensure.

Licenses shall be valid for two years unless they have been extended, pursuant to Section 10529.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.01, Health and Safety Code.

10529. Extension of Period of Licensure.

- (a) At least 120 days prior to the expiration date noted on the license, the Department shall send a notice to the licensee which shall:

- (1) Inform the licensee of the date when the current period of licensure will expire, as specified on the license;
 - (2) Inform the licensee that the period of licensure will be extended if the licensee:
 - (A) Updates the licensing information contained in the licensee's application for licensure,
 - (B) Pays all licensing fees in accordance with Section 10533;
 - (C) Pays any civil penalties assessed in accordance with Section 10547 and adjudicated pursuant to Section 10550; and
 - (D) Maintains a valid fire clearance.
 - (3) Notify the licensee that failure to pay all licensing fees due or to return the information requested by the date of expiration specified on the notice will result in automatic expiration of the license and that continued operation of the facility beyond the date of expiration is prohibited by Section 11834.30 of the Health and Safety Code and Section 10505 of this chapter.
- (b) If the licensee complies with the requirements of Subsection (a)(2) of this regulation, the Department shall automatically extend the period of licensure, unless the Department has petitioned the court to enjoin operation of the facility, pursuant to Section 10548(f).
 - (c) If the licensee fails to comply with the requirements of Subsection (a)(2) of this regulation, the license shall automatically expire as of the date specified on the license.
 - (d) The Department shall not extend the period of licensure until all licensing fees and/or civil penalties, assessed pursuant to Section 10547 and adjudicated pursuant to Section 10550, have been paid in full.
 - (e) Failure to pay licensing fees and/or civil penalties, assessed pursuant to Section 10547 and adjudicated pursuant to Section 10550, within thirty (30) days after the date the period of licensure expires shall be deemed a voluntary relinquishment of the license.
 - (f) In the event that the licensee voluntarily relinquishes the license, in order to reapply for licensure the licensee shall:
 - (1) Submit a new application for licensure, pursuant to Article 3 (commencing with Section 10514) of this chapter, and
 - (2) Pay all outstanding licensing fees and all unpaid civil penalties, assessed pursuant to Section 10547 and adjudicated pursuant to Section 10550.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01 and 11834.16, Health and Safety Code.

Article 5. Licensing Fees

10532. Computation of Licensing Fee.

- (a) The Department shall assess a fee for licensing each alcoholism or drug abuse recovery or treatment facility not operating under the auspices of a nonprofit organization or a governmental entity.
- (b) The Department shall compute licensure fees every other year, beginning with the 1994-95 state fiscal year.
- (c) The licensure fee shall be the average actual cost of licensing a facility, computed as follows:
 - (1) The Department shall compute the average actual cost by dividing the projected departmental expenses (including staff salaries and benefits, operating expenses, and indirect costs related to licensing) for the current fiscal year by the total number of residential alcoholism or drug abuse recovery or treatment facilities licensed as of June 1st of the previous fiscal year.
 - (2) The Department shall provide the data base used for computing the licensure fees upon request and shall also include it as part of the Department's application for licensure.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code
Reference: Section 11834.15, Health and Safety Code.

10533. Payment of Licensing Fees.

- (a) Except for residential alcoholism or drug abuse recovery or treatment facilities which are operated under the auspices of a nonprofit organization or a governmental entity, all applicants for licensure and all licensees are required to pay a licensing fee, computed by the Department in accordance with Section 10532.
- (b) The application for licensure shall specify the amount of the licensing fee to be paid upon application.
 - (1) Applicants for licensure shall attach to the application for licensure a certified check or money order on the amount of the licensing fee.

- (2) The Department may terminate its review of an application for licensure if the applicant has failed to attach the required licensure fee.
 - (3) The licensure fee shall not be refunded.
- (c) At least 90 days prior to the expiration date specified on the license, the Department shall notify the licensee of the amount of licensing fee to be paid and the date by which the fee shall be paid.
 - (1) The licensee shall submit licensing fees prior to the expiration date noted on the license.
 - (2) The license shall expire on the date specified on the license unless all licensing fees have been paid in full.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.03, 11834.09, and 11834.16, Health and Safety Code.

Article 6. Enforcement

10540. Denial of Licensure.

- (a) The Department may deny an application for a license for any of the following reasons:
 - (1) Review of the application indicates that the applicant is not in compliance with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the requirements of this chapter;
 - (2) The applicant fails to remedy each deficiency identified pursuant to Section 10544 of this chapter;
 - (3) The facility is not in substantial compliance with this chapter; or
 - (4) The applicant fails to pay any civil penalty assessed pursuant to Section 10547 and adjudicated pursuant to Section 10550.
- (b) If the Department denies an application for licensure, the Department shall send a written notice of denial to the applicant by certified mail. The notice shall:
 - (1) Explain the reasons for denial;
 - (2) Notify the applicant that he/she shall cease operating the alcoholism or drug abuse recovery or treatment facility within ten (10) days of the date of the notice;

- (3) Advise the applicant of his/her right to a hearing in accordance with the provisions of Chapter 5, (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code;
- (4) Notify the applicant that the Department shall assess a civil penalty of two hundred (\$200) dollars a day, beginning on the 11th day after the date of the notice, if the applicant continues to operate an unlicensed facility.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01, 11834.30, 11834.31, 11834.36, and 11834.37, Health and Safety Code; and Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2, Government Code.

10541. Types of Deficiencies.

- (a) As used in this chapter, "deficiency" means failure to comply with any provision of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code, or the regulations contained in this chapter. Deficiencies shall be classed as Class A, B, or C deficiencies as defined in this section.
- (b) A Class A deficiency is any deficiency which presents an imminent danger to any resident of the facility. As used in this Chapter, "imminent danger" means that the more likely consequence of the deficiency is death or physical injury which would:
 - (1) Render a part of the body functionally useless or temporarily or permanently reduced in capacity, or
 - (2) Inhibit any function of the body to such a degree as to shorten life or to reduce physical or mental capacity.
- (c) A Class B deficiency is any deficiency relating to the operation or maintenance of the facility which has a direct or immediate relationship to the physical health, mental health, or safety of facility residents.
- (d) A Class C deficiency is a deficiency relating to the operation or maintenance of the facility which the Department determines has only a minimal relationship to the health or safety of facility residents.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.34 and 11834.50, Health and Safety Code.

10542. Investigation of Complaints Regarding Unlicensed Facilities.

- (a) If an unlicensed facility provides residential alcoholism or drug abuse recovery or treatment services, the facility is operating in violation of Chapter 7.5 (commencing with

Section 11834.30) of Part 2 of Division 10.5 of the Health and Safety Code, and Chapter 5, Division 4, Title 9, Section 10505 of the California Code of Regulations.

- (b) If an unlicensed facility is alleged to be in violation of Chapter 7.5 (commencing with Section 11834.30), Part 2, Division 10.5 of the Health and Safety Code, and Chapter 5, Division 4, Title 9, Section 10505 of the California Code of Regulations, the Department shall conduct an investigation.
- (c) If the Department determines, as the result of its investigation, that an unlicensed facility is operating in violation of Chapter 7.5 (commencing with Section 11834.30) of Part 2 of Division 10.5 of the Health Safety Code, and Chapter 5, Division 4, Title 9, Section 10505 of the California Code of Regulations, the Department shall deliver to the facility, in person or by certified mail, a notice which shall notify the operator of the facility that the facility is operating without a license, in violation of Section 11834.30 of the Health and Safety Code and Section 10505 of this chapter. If delivered in person, the notice shall be delivered within ten (10) working days of the completion of the investigation. If mailed by certified mail, the notice shall be postmarked within ten (10) working days of the completion of the investigation. The completion of the complaint investigation is when all evidence has been inspected and witnesses who are relevant to the allegations have been interviewed.
- (d) The Department shall not disclose the identity of the complainant unless authorized in writing by the complainant.
- (e) Within ten (10) working days of receipt of the complaint, the Department shall initiate an investigation by assigning the complaint to a Departmental complaint investigator.
 - (1) Unless an application for licensure was denied or the facility license was suspended or revoked within two (2) years of the date of the notice, the Department shall order the operator of the unlicensed facility to cease operation immediately upon receipt of the notice. Upon receipt of the notice, the unlicensed facility shall within fifteen (15) days of receipt of the notice respond in writing that the facility has ceased providing all alcoholism or drug abuse recovery or treatment services.
 - (2) The notice of operation in violation of law shall specify that the Department will take action in accordance with Subsection (g) of this regulation if the unlicensed facility fails to cease operation immediately upon receipt of the notice and fails to notify the Department of such cessation within fifteen (15) days of the receipt of the notice.
- (f) The complaint investigator may interview residents and/or facility staff in private, and inspect relevant records without the prior consent of the facility operator.

- (g) If the unlicensed facility fails to cease operation immediately upon receipt of the notice of operation in violation of law and fails to notify the Department of such cessation within fifteen (15) days of the receipt of the notice, on the 16th day the Department shall:
- (1) Assess a civil penalty of two hundred (\$200) dollars per day against the operator of the unlicensed facility.
 - (A) If the facility operator or his/her representative provides written notification to the Department that the unlicensed facility has ceased operation, the civil penalty shall cease as of the date the notification is postmarked.
 - (B) The Department may conduct a site visit to verify that the unlicensed facility is no longer in violation of Chapter 7.5 (commencing with Section 11834.30) of Part 2 of Division 10.5 of the Health and Safety Code, and Chapter 5, Division 4, Title 9, Section 10505 of the California Code of Regulations. If the site visit indicates that the unlicensed facility is still in violation of Chapter 7.5 (commencing with Section 11834.30) of Part 2 of Division 10.5 of the Health and Safety Code, and Chapter 5 of Division 4, Title 9, Section 10505 of the California Code of Regulations, the Department may assess the two hundred (\$200) dollars per day civil penalty without interruption from the date the facility received the notice of operation in violation of law.
 - (2) Petition the superior court in and for the county in which the violation occurred to enjoin the unlicensed operation of the facility. Any such action shall conform to the requirements of Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil Procedure, except that the Director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss.
- (h) All civil penalties, assessed pursuant to this regulation and adjudicated pursuant to Section 10550, shall be due and payable upon receipt of a notice of payment issued by the Department, and shall be paid by certified check or money order made payable to the Department of Alcohol and Drug Programs.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.30, 11834.31, 11834.32 and 11834.45, Health and Safety Code.

10543. Investigation of Complaints Regarding Licensed Facilities.

- (a) Any person may request an inspection of an alcoholism or drug abuse recovery or treatment facility by contacting the Department in person, by telephone or in writing, or by any other automated or electronic means.
- (b) The Department shall not disclose the identity of the complainant unless authorized in writing by the complainant.
- (c) Within ten (10) working days of receipt of the complaint, the Department shall initiate an investigation.
- (d) The complaint investigator may conduct a site investigation of the facility, with or without advance notice, at any reasonable time, upon presentation of proper identification, in order to determine compliance with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code, and the requirements of this chapter.
- (e) At the completion of the site investigation the complaint investigator may conduct a face-to-face exit interview with the licensee or his/her designee to discuss the progress of the investigation. If the complaint investigator does not conduct a face-to-face exit interview, the complaint investigator shall conduct a telephone interview with the licensee or his/her designee as soon as possible upon conclusion of a site investigation and document in the investigation report or notice of deficiency why he/she did not conduct a face-to-face exit interview.
- (f) The complaint investigator may interview residents and/or facility staff in private, and inspect relevant licensee records without the prior consent of the licensee.
- (g) The complaint investigator shall notify the licensee verbally or in writing when the complaint investigation is complete. If notified verbally, such notification shall be documented on the reverse of the complaint form.
- (h) If the complaint investigation discloses deficiencies, the complaint investigator shall prepare a written notice of deficiency, listing all deficiencies. The complaint investigator shall provide a written notice of deficiency to the licensee or his/her designee, in person before leaving the facility, or by certified mail. If mailed, the notice of deficiency shall be postmarked within ten (10) working days of completion of the complaint investigation, pursuant to Subsection (g) of this regulation. Completion of the complaint investigation is when all evidence has been inspected and witnesses who are relevant to the allegations have been interviewed. If any Class A deficiencies have been cited, before leaving the facility the complaint investigator shall provide the written notice of deficiency to the licensee or his/her designee.
- (i) The notice of deficiency shall specify:

- (1) The section number, title, and code of each statute or regulation which has been violated;
 - (2) The manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the facility in which it occurred;
 - (3) The date by which each deficiency shall be corrected; and
 - (4) The amount of civil penalty to be assessed in accordance with Section 10547 and the date the Department shall begin to assess the penalty, if the licensee fails to correct the noticed deficiencies or comply by the date in the approved corrective action plan.
- (j) The notice of deficiency shall require the licensee to correct deficiencies as specified below:
- (1) Class A deficiencies shall be abated or eliminated immediately upon receipt of the notice of deficiency by the licensee or his/her designee;
 - (2) Class B deficiencies shall be corrected within thirty (30) days of receipt of the notice of deficiency unless the complaint investigator determines, based on review, that the deficiency is sufficiently serious to require correction within a shorter period of time. In that event, the complaint investigator shall explain how the deficiency jeopardizes the health or safety of the residents;
 - (3) Class C deficiencies shall be corrected within thirty (30) days of receipt of the notice of deficiency, unless the complaint investigator determines that the deficiency cannot be completely corrected within thirty (30) days. In that event, the complaint investigator shall specify in the notice of deficiency the time in which the deficiency shall be corrected and the reason why it cannot be corrected within thirty (30) days.
- (k) If the licensee or his/her designee refuses to accept receipt of a written notice of deficiency, the date of the notice shall constitute the date of receipt.
- (l) If so requested by the complainant, the Department shall notify the complainant, in writing, of the results of its investigation.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01, 11834.31, 11834.34, and 11834.50, Health and Safety Code.

10544. Licensing Compliance Reviews.

- (a) The Department shall review each alcoholism or drug abuse recovery or treatment facility to determine compliance at least once during every period of licensure.
- (b) Any authorized employee or agent of the Department may enter and inspect any alcoholism or drug abuse recovery or treatment facility at any reasonable time, upon presentation of proper identification, with or without advance notice, to determine compliance with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the requirements of this chapter.
- (c) The Department may interview residents and/or facility staff in private, and inspect relevant licensee records without the prior consent of the licensee.
- (d) At the completion of the compliance review, the reviewer may conduct a face-to-face exit interview with the licensee or his/her designee to discuss any deficiencies noted. If the reviewer does not conduct a face-to-face exit interview, the reviewer shall conduct a telephone interview with the licensee or his/her designee as soon as possible upon conclusion of a site visit and document in the licensing report or notice of deficiency why he/she did not conduct a face-to-face exit interview. A licensing report is issued when there are no deficiencies; a notice of deficiency is issued when there are deficiencies.
- (e) The reviewer shall prepare a written notice of deficiency listing all deficiencies.
- (f) The notice of deficiency shall specify:
 - (1) The section number, title, and code of each statute or regulation which has been violated;
 - (2) The manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the facility in which it occurred;
 - (3) The date by which each deficiency shall be corrected; and
 - (4) The amount of civil penalty to be assessed in accordance with Section 10547 and the date the Department shall begin to assess the penalty, if the licensee fails to correct the noticed deficiencies in accordance with the corrective action plan.
- (g) The reviewer shall provide the written notice of deficiency to the licensee or his/her designee:
 - (1) In person before leaving the facility; or

- (2) By certified mail, postmarked within ten (10) working days of the completion of the licensing compliance review. If the reviewer mails the notice of deficiency to the licensee, a return receipt shall be requested.
- (h) If any Class A deficiencies have been cited, before leaving the facility the reviewer shall provide the written notice of deficiency to the licensee or his/her designee.
- (i) The notice of deficiency shall require the licensee to correct deficiencies as specified below:
 - (1) Class A deficiencies shall be abated or eliminated immediately upon receipt of the notice of deficiency by the licensee or his/her designee of the facility;
 - (2) Class B deficiencies shall be corrected within thirty (30) days of receipt of the notice of deficiency unless the reviewer determines, based on review, that the deficiency is sufficiently serious to require correction within a shorter period of time. In that event, the reviewer shall explain how the deficiency jeopardizes the health or safety of the residents;
 - (3) Class C deficiencies shall be corrected within thirty (30) days of receipt of the notice of deficiency, unless the reviewer determines that the deficiency cannot be completely corrected within thirty (30) days. In that event, the reviewer shall specify in the notice of deficiency the time in which the deficiency shall be corrected and the reason why it cannot be corrected within thirty (30) days.
- (j) If the licensee or his/her designee refuses to accept receipt of a written notice of deficiency, the date of the notice shall constitute the date of receipt.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01, 11834.35, and 11834.50, Health and Safety Code.

10545. Development of a Corrective Action Plan.

- (a) The licensee shall submit written verification of correction for each deficiency identified in the notice of deficiency to the manager of the Licensing and Certification Branch, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814. The written verification shall substantiate that the deficiency has been corrected and specify the date when the deficiency was corrected. The written verification shall be postmarked no later than the date specified in the notice of deficiency.
- (b) If the licensee cannot correct a Class B or C deficiency by the date specified in the notice of deficiency, the licensee shall submit a written corrective action plan to the manager of the Licensing and Certification Branch, Department of Alcohol and Drug

Programs, 1700 K Street, Sacramento, CA 95814. The written corrective action plan shall be postmarked no later than the date specified in the notice of deficiency.

- (c) The written corrective action plan shall:
 - (1) Specify what steps the licensee has taken to correct the deficiency;
 - (2) Substantiate why the deficiency cannot be corrected as specified in the notice of deficiency; and
 - (3) Specify when the deficiency will be corrected.
- (d) In reviewing the licensee's corrective action plan, the Department shall consider:
 - (1) The potential hazard presented by the deficiency;
 - (2) The number of residents impacted;
 - (3) Documentation submitted by the licensee as applicable to substantiate:
 - (A) Lack of availability of funds, equipment, or personnel necessary to correct the deficiency;
 - (B) Estimated time necessary for delivery and installation of necessary equipment; and/or
 - (C) Estimated time necessary to make structural modifications.
- (e) Within ten days of receipt by the Department of the written verification and/or corrective action plan, the Department shall notify the licensee, in writing by first class mail, whether the written verification and/or corrective action plan has been approved.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.34 and 11834.50, Health and Safety Code.

10546. Follow-up Visit to Verify Correction of Deficiency.

- (a) The Department may conduct follow-up reviews to determine if the licensee has corrected all deficiencies specified in the notice of deficiency.
- (b) If a follow-up review indicates that a deficiency has not been corrected on or before the date specified in the notice of deficiency or subsequent approved corrective action plan, the Department shall issue a notice of civil penalty pursuant to Section 10547 of this chapter.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.01, 11834.34, and 11834.50, Health and Safety Code.

10547. Assessment of Civil Penalties for Failure to Correct Deficiencies.

- (a) If a licensee fails to correct a deficiency by the date specified in the notice of deficiency or subsequent approved corrective action plan, the Department shall assess a civil penalty as indicated below:
 - (1) The Department shall assess a civil penalty of twenty-five (\$25) dollars per day against the licensee for each Class C deficiency.
 - (2) The Department shall assess a civil penalty of fifty (\$50) dollars per day against the licensee for each Class A or B deficiency.
 - (3) The maximum daily civil penalty for all deficiencies shall not exceed one hundred fifty (\$150) dollars.
- (b) The Department shall assess civil penalties from the date specified in the notice of deficiency or subsequent approved corrective action plan until the date the licensee submits written verification that the deficiency is corrected. The date of submission by the licensee shall be the date the written verification of correction is postmarked. If a Departmental site visit determines that the licensee failed to correct the deficiency, the civil penalty shall continue to accrue from the date specified in the notice of deficiency.
- (c) If the licensee repeats the same violation within a 12 month period, the Department shall assess a civil penalty against the licensee of one hundred fifty (\$150) dollars. The Department shall also assess a penalty of fifty (\$50) dollars for each day from the date specified in the notice of deficiency until the Department receives written verification from the licensee that the deficiency is corrected. The date of receipt by the Department shall be the date the written verification of correction from the licensee is postmarked. If a Departmental site visit determines that the licensee failed to correct the deficiency, the civil penalty shall continue to accrue from the date specified in the notice of deficiency.
- (d) If a licensee, who was assessed a civil penalty in accordance with (c) of this section, repeats the same violation within twelve (12) months of the second violation, the Department shall assess a civil penalty of one hundred fifty (\$150) dollars for each day from the date specified in the notice of deficiency until the Department receives written verification from the licensee that the deficiency was corrected. The date of receipt by the Department shall be the date the written verification of correction from the licensee is postmarked. If a Departmental site visit determines that the licensee failed to correct the deficiency, the civil penalty shall continue to accrue from the date specified in the notice of deficiency.

- (e) If the Department assesses a civil penalty, the Department shall provide to the licensee a written notice of civil penalty, which shall specify:
 - (1) The amount of the civil penalty,
 - (2) The date upon which the civil penalty shall begin,
 - (3) The date payment is due,
 - (4) The address to which the payment is to be mailed or delivered, and
 - (5) The licensee's right to administrative review, pursuant to Section 10550.
- (f) Civil penalties, assessed pursuant to this regulation and adjudicated pursuant to Section 10550, shall be paid by certified check or money order payable to the Department of Alcohol and Drug Programs.
- (g) If a licensee fails to pay civil penalties, assessed pursuant to Section 10547 and adjudicated pursuant to Section 10550, the Department may file a claim in a court of competent jurisdiction or take other disciplinary action as necessary to recover the amount of the penalties.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.34, 11834.36, and 11834.45, Health and Safety Code.

10548. Suspension or Revocation of Licensure.

- (a) The Department may seek suspension or revocation of a license, in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, when:
 - (1) The licensee is issued a notice of deficiency for any action which has resulted in death, serious physical harm, or imminent danger to a resident of the facility; or
 - (2) The licensee fails to correct any Class A deficiency by the date specified in the notice of deficiency; or
 - (3) The licensee repeatedly fails to correct Class B deficiencies; or
 - (4) The licensee has failed to pay civil penalties, assessed in accordance with Section 10547 and adjudicated pursuant to Section 10550.
- (b) The Department shall deliver to the licensee, in person or by certified mail, an accusation and notice of suspension or revocation, which shall:

- (1) Inform the licensee that the facility's license is being suspended or revoked and the effective date of the suspension or revocation;
 - (2) Explain the reason(s) for the suspension or revocation;
 - (3) Order the licensee to suspend operation of the facility as of the date specified on the notice; and
 - (4) Explain the licensee's right to a hearing and the procedure for requesting a hearing, pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.
- (c) Within fifteen (15) days of the date of receipt of the licensee's notice of defense to the accusation, the Department shall request the Office of Administrative Hearings to set the matter for hearing.
- (d) Departmental action to suspend or revoke licensure shall comply with the requirements set forth in Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.
- (e) Expiration, forfeiture, or surrender of a license shall not prohibit the Department from taking action to deny, suspend, or revoke licensure pursuant to the provisions of Chapter 7.5 (commencing with Section 11834.01), Division 10.5, of the Health and Safety Code or this chapter.
- (f) The Department may suspend licensure of a facility prior to hearing when such action is necessary to protect residents of the facility from physical or mental abuse, abandonment or any other substantial threat to the residents' health or safety. If the Department takes such action, the notice of suspension shall specify the licensee's legal right to petition the court to enjoin closure of the facility pursuant to Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil Procedure, in addition to the requirements of Subsection (b) of this regulation.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.32, 11834.34, 11834.36, 11834.37, 11834.39, and 11834.45, Health and Safety Code; Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil Procedure; and Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

Article 7. Licensing Appeals

10550. Administrative Review of Civil Penalties.

- (a) The licensee may appeal a notice of civil penalty by forwarding a written request for review to the Director, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814.
- (b) The written request for review shall be postmarked within fifteen (15) working days of receipt by the licensee of the written notice of civil penalty. The written request for review shall include:
 - (1) A statement of the statute or regulation which is at issue and the legal basis for the licensee's appeal.
 - (2) A statement of the facts supporting the licensee's position.
- (c) Failure to submit the written request for review, pursuant to Subsection (b) of this regulation, shall be deemed a waiver of administrative review.
- (d) Within fifteen (15) working days of receipt of the request for review, the Director or the Director's designee shall schedule and hold an informal conference with the licensee, unless the Director or the Director's designee and the licensee agree to settle the matter based upon the information submitted with the request for review.
- (e) Failure to hold the informal conference within fifteen (15) working days of the receipt of the request shall be deemed a waiver of the civil penalties by the Department unless the licensee:
 - (1) Fails to attend the conference as scheduled,
 - (2) Waives the 15 working day requirement, or
 - (3) Waives his/her right to the informal conference.
- (f) The licensee shall have the following rights at the informal conference:
 - (1) The right to be represented by legal counsel.
 - (2) The right to present oral and written evidence.
 - (3) The right to explain any mitigating circumstances.

- (g) The representatives of the Department who issued the notice of deficiency or the notice of civil penalties shall attend the informal conference and present evidence and information, oral or written, in substantiation of the alleged violation.
- (h) The conference shall be conducted as an informal proceeding, and shall not be conducted in the manner of a judicial hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code), and need not be conducted according to the technical rules relating to evidence and witnesses.
- (i) Neither the licensee nor the Department shall have the right to subpoena any witness to attend the informal conference. However, both the licensee and the Department may present any witness to present evidence and information on its behalf at the conference.
- (j) The proceedings at the informal conference may be recorded by either party on audiotape.
- (k) The decision to affirm, modify, or dismiss the Notice of Civil Penalties shall be mailed by the Director or the Director's designee to the licensee postmarked no later than 10 working days from the date of the informal conference. The decision shall state with particularity the reason for affirming, modifying, or dismissing the Notice of Civil Penalties. A copy of the decision shall be transmitted to each party of the appeal.
- (l) If the civil penalty, discussed at the informal conference, was assessed for failure to correct a Class A violation, the decision made at the informal conference shall be deemed final.
- (m) If the civil penalty, discussed at the informal conference, was assessed for failure to correct a Class B or C violation, the decision shall include a statement from the Director or the Director's designee notifying the licensee of the right of further administrative appeal to the decision made at the informal conference. A hearing may be requested in accordance with Chapter 5 (commencing with Section 11500) Part 1, Division 3, Title 2 of the Government Code.
 - (1) The licensee may appeal the decision made at the informal conference by submitting a written request to the Director of the Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814, postmarked no later than 10 working days from the date of the decision. Upon receipt of the request for appeal, the Department shall initiate administrative review and request that the matter be set for hearing. The Department shall notify the licensee of the time and place of the hearing.
 - (2) Failure of the licensee to timely submit the written request for an administrative hearing shall be deemed a waiver of further administrative review and the

decision of the Director or the Director's designee shall be deemed the final decision of the Department.

- (3) In the event the licensee appeals the Department's proposed assessment of penalties, collection of the penalties shall be subject to the outcome of the final administrative appeal.
- (4) A civil penalty shall be deemed final if:
 - (A) The licensee fails to appeal the civil penalty in a timely manner, pursuant to Subsections (c) and (m)(2) of this regulation; or
 - (B) A final determination has been made on an action previously pending administrative review.
- (5) After deemed final, the civil penalty shall be paid to the Department within sixty (60) days of receipt of the notice of final adjudication. Failure to pay the civil penalty within sixty (60) days of receipt of the notice of final adjudication shall result in automatic termination of the license.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Sections 11834.34, 11834.36, 11834.37, 11834.45, and 11834.50, Health and Safety Code; and Chapter 5 (commencing with Section 11500), Part 1, Division 3, of Title 2, Government Code.

Subchapter 3. Compliance Requirements

Article 1. Physical Environment

10561. Reporting Requirements.

- (a) Each licensee or applicant shall follow the prescribed procedures of Section 10561(b) of this subchapter in the occurrence of any events identified in Section 10561(b)(1) of this subchapter.
- (b) Upon the occurrence of any of the events identified in Section 10561(b)(1) of this subchapter the licensee shall make a telephonic report to department licensing staff within one (1) working day. The telephonic report is to be followed by a written report in accordance with Section 10561(b)(2) of this subchapter to the department within seven (7) days of the event. If a report to local authorities exists which meets the requirements cited, a copy of such a report will suffice for the written report required by the department.
 - (1) Events reported shall include:
 - (A) Death of any resident from any cause.
 - (B) Any facility related injury of any resident which requires medical treatment.
 - (C) All cases of communicable disease reportable under Section 2502 of Title 17, California Code of Regulations shall be reported to the local health officer in addition to the department.
 - (D) Poisonings.
 - (E) Catastrophes such as flooding, tornado, earthquake or any other natural disaster.
 - (F) Fires or explosions which occur in or on the premises.
 - (2) Information provided shall include the following:
 - (A) Residents' name, age, sex, and date of admission.
 - (B) Date, time, and nature of event.
 - (C) Attending physician's name, findings and treatment, if any.

- (c) The items below shall be reported to the department within ten (10) working days following the occurrence.
 - (1) The organizational changes specified in Section 10531(a) of this subchapter.
 - (2) Any change in the licensee's or applicant's mailing address.
 - (3) Any change of the administrator of the facility. Such notification shall include the new administrator's name, address and qualifications.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Sections 11834.01 and 11834.50, Health and Safety Code.

10562. Finances.

- (a) The licensee shall maintain the following financial documents:
 - (1) An annual line item budget which includes all revenues and operation costs necessary to achieve its stated goals and objectives.
 - (2) Monthly financial operating statements which reflect the revenue and expenditure line items identified in the budget as specified in Section 10562(a)(1) of this subchapter.
- (b) Documents required by Section 10562(a)(1)(2) of this subchapter shall be available for the department's review.
- (c) The licensee shall submit additional financial information to demonstrate its ability to achieve its goals and objectives upon request of the department.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10563. Accountability.

The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed facility, and for the establishment of policies concerning its operation.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

Article 2. Staffing Standards

10564. Personnel Requirements.

(a) Facility administrator qualifications

- (1) The facility administrator shall demonstrate abilities and competency in the following areas:
 - (A) Knowledge of the requirements for providing the type of alcoholism or drug abuse recovery or treatment services needed by residents.
 - (B) Knowledge of and ability to comply with applicable law and regulations.
 - (C) Ability to direct the work of others, when applicable.
 - (D) Ability to develop and manage the facility's alcohol or drug abuse recovery or treatment services and budget.
 - (E) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable to the facility.
- (2) Each licensee shall make provision for continuing operation and administration during any absence of the regular administrative personnel.
- (3) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the facility administrator provided that he/she meets the qualifications specified in this section, and in applicable regulations.

(b) Staff Qualifications

- (1) Facility personnel including volunteers shall be competent to provide the services necessary to meet resident needs and shall be adequate in numbers necessary to meet such needs. Competence shall be demonstrated by accrued work, personal, and/or educational experience and/or on-the-job performance.
- (2) The department shall have the authority to require any licensee to provide additional staff whenever the department determines and documents that existing staff is unable to provide services as described in the plan of operation submitted to the department. The licensee shall be informed in writing of the reasons for the department's determination. The following factors shall be taken into consideration in determining the need for additional staff:
 - (A) Needs of the particular residents;

- (B) Extent of the services provided by the facility; and
 - (C) Physical arrangements of the particular facility.
- (3) All personnel shall be trained or shall have experience which provides knowledge of the skills required in the following areas, as appropriate to the job assigned, and as evidenced by safe and effective job performance:
- (A) General knowledge of alcohol and/or drug abuse and alcoholism and the principles of recovery.
 - (B) Housekeeping and sanitation principles.
 - (C) Principles of communicable disease prevention and control.
 - (D) Recognition of early signs of illness and the need for professional assistance.
 - (E) Availability of community services and resources.
 - (F) Recognition of individuals under the influence of alcohol and/or drugs.
 - (G) Principles of nutrition, food preparation and storage, and menu planning.
- (c) All personnel shall be in good health.
- (1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed under licensed medical supervision not more than 60 days prior to or 7 days after employment with tuberculosis testing renewable every year.
- (A) Personnel with a known record of tuberculosis or record of positive testing shall not be required to be retested if a physician verifies the individual has been under regular care and monitoring for tuberculosis. Such verification will be renewed annually.
- (2) A health screening report signed by the person performing such screening shall be made for each person specified above, and shall indicate the following:
- (A) The person's physical qualifications to perform assigned duties.
 - (B) The presence of any health condition that would create a hazard to the person, residents or other staff members.

- (3) The good physical health of each volunteer who works in the facility shall be verified by a statement signed by each volunteer affirming that he/she is in good health, and a test for tuberculosis performed not more than 60 days prior to or 7 days after initial presence in the facility and annually thereafter. At the discretion of the licensee, tuberculosis testing need not be required for volunteers whose functions do not necessitate frequent or prolonged contact with residents.
 - (A) Volunteers with a known record of tuberculosis or record of positive testing shall not be required to be re-tested if a physician verifies the individual has been under regular care and monitoring for tuberculosis. Such verification will be renewed annually.
- (d) Personnel with evidence of physical illness that poses a threat to the health and safety of residents shall be temporarily relieved of their duties.
- (e) Residents shall not be used as substitutes for required staff but shall be permitted to participate in duties and tasks as a voluntary part of their program of activities.
- (f) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance, experience or training. Residents shall not be utilized to fulfill this requirement.
- (g) Personnel shall provide services without physical or verbal abuse, exploitation or prejudice.
- (h) All personnel shall be instructed to report observation or evidence of violations of personal rights as specified in Section 10569 of this subchapter.
- (i) The licensee shall develop, maintain, and implement an ongoing training program for all staff in the areas identified in Section 10564 (b)(3) of this subchapter in addition to specific training related to their duties. Staff participation in the training program shall be documented and maintained on file for 3 years.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.10, Health and Safety Code.

10565. Personnel Records.

- (a) Personnel records shall be completed and maintained for each employee, shall be available to the department for review, and shall contain the following information:
 - (1) Employee's full name.

- (2) Driver's license number, class, and expiration date if the employee is to transport residents.
 - (3) Date of employment.
 - (4) Home address and phone number.
 - (5) Past experience, including types of employment and former employers.
 - (6) Duty statement.
 - (7) Termination date if no longer employed by the facility.
- (b) All personnel shall have on file the record of the health screening as specified in Section 10564(c)(1), (2) of this subchapter.
 - (c) All records shall be maintained at the facility site. The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the department at the facility site upon request.
 - (d) Personnel records shall be retained for 3 years after the termination date of employment.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

Article 3. Program Services

10566. Admission Agreements.

- (a) Fees assessed in consideration for resident recovery or treatment services shall be addressed in individual written agreements at time of admission.
- (b) Admission agreements shall specify the following:
 - (1) Services to be provided.
 - (2) Payment provisions.
 - (A) Amount assessed.
 - (B) Payment schedule.
 - (C) Refund policy.

- (3) Those actions, circumstances or conditions which may result in resident eviction from the facility.
 - (4) The consequences when a resident relapses and consumes alcohol and/or non-health sustaining drugs.
 - (5) Conditions under which the agreement may be terminated.
- (c) Such agreements shall be dated and signed by the resident and the licensee no later than seven days following admission. When a facility admits an individual solely for detoxification services, as defined in Section 10501(a) of this subchapter, the facility shall be exempt from this requirement.
 - (d) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the resident and the licensee.
 - (e) The licensee shall retain the original copy of the agreement and shall provide a copy to the resident.
 - (f) The licensee shall comply with all terms and conditions set forth in the admission agreement.
 - (g) The admission agreement shall be automatically terminated by the death of the resident. No liability or debt shall accrue after the date of death.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.

Reference: Sections 11834.01, 11834.10, and 11841(b), Health and Safety Code.

10567. Resident Health Screening.

- (a) Every resident shall complete a health questionnaire which shall identify any health problems or conditions which require medical attention, or which are of such a serious nature as to preclude the person from participating in the program.
- (b) Every resident shall be tested for tuberculosis under licensed medical supervision within six (6) months prior to or 30 days after admission and annually thereafter if continuous participation is maintained.
 - (1) Residents with a known record of tuberculosis or record of positive testing shall not be required to be retested if a physician verifies the individual has been under regular care and monitoring for tuberculosis.
- (c) Licensee's staff shall carefully review each resident's health questionnaire, interview each resident regarding information given, and ensure that:

- (1) A resident seeks and obtains medical or dental assistance for any significant health problems while remaining in residency; or
- (2) Be referred to an appropriate facility which can provide required service.
- (d) A licensee that primarily provides detoxification services will be exempt from the requirement of Section 10567(b) of this subchapter.
- (e) The licensee is responsible for ensuring that each resident is provided with a safe, clean, and healthful environment.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10568. Resident Records.

- (a) A separate, complete, and current record shall be maintained in the facility for each resident.
- (b) Each record shall contain information including but not limited to the following:
 - (1) Name of resident.
 - (2) Birth Date.
 - (3) Sex.
 - (4) Date of Admission.
 - (5) A signed copy of the admission agreement specified in Section 10566 of this subchapter.
 - (6) Health screening record, as specified in Section 10567.
 - (7) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility provided assistance or referral for the resident in meeting necessary medical and dental needs.
 - (8) Record of any permitted current medication including the name of the person who prescribed the medication and instructions for its use.
 - (9) Date and reason for termination of services.

- (c) All information and records obtained from or regarding resident shall be confidential and maintained in conformity with Title 42, Subchapter A, Part 2 Sections 2.1 through 2.67-1, Code of Federal Regulations, hereby incorporated by reference into these regulations.
- (d) Resident records shall be updated as necessary to ensure current accuracy.
- (e) Original or photographic reproduction of all resident records shall be retained for at least 3 years following termination of service to the resident.
- (f) A licensee that primarily provides detoxification services may be exempt from the requirements of Section 10568(b)(5), (9) of this subchapter.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01, Health and Safety Code.

10569. Personal Rights.

- (a) Each resident shall have personal rights which include, but are not limited to the following:
 - (1) The right to confidentiality as provided for in Title 42, Subchapter A, Part 2 Sections 2.1 through 2.67-1, Code of Federal Regulations.
 - (2) To be accorded dignity in personal relationships with staff and other persons.
 - (3) To be accorded safe, healthful and comfortable accommodations to meet his or her needs.
 - (4) To be free from intellectual, emotional and/or physical abuse.
 - (5) To be informed by the licensee of the provisions of law regarding complaints including but not limited to the address and telephone number of the department.
 - (6) To be free to attend religious services or activities of his or her choice and to have visits from a spiritual advisor provided that these services or activities do not conflict with facility program requirements. Participation in religious services will be voluntary only.
- (b) All residents shall be personally advised of, and given at admission, a copy of the rights specified in (a)(1) through (6) above.

NOTE: Authority cited: Section 11834.13, Health and Safety Code.
Reference: Section 11834.14(d), Health and Safety Code.

10570. Telephones.

All facilities shall have adequate telephone service on the premises for use in emergencies.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10571. Transportation.

- (a) Only drivers licensed for the type of vehicle operated shall be permitted to transport residents.
- (b) Manufacturer's rated seating capacity of vehicles shall not be exceeded.
- (c) Motor vehicles used to transport residents shall be maintained in a safe operating condition.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10572. Health-Related Services.

- (a) The licensee shall ensure that residents receive necessary first aid and information about and/or referral to needed medical or dental services.
- (b) During the provision of alcoholism or drug abuse recovery or treatment services as defined in Section 10501(a) of this subchapter there shall be at least one person in the facility who is capable of providing cardiopulmonary resuscitation and first aid, notwithstanding section 10572(b)(1) of this subchapter. Individuals providing cardiopulmonary resuscitation and first aid shall be qualified by the American Red Cross or other recognized agencies.
 - (1) Facilities providing detoxification services shall ensure that at least one person is always on the premises who is capable of providing cardiopulmonary resuscitation and first aid.
- (c) First aid supplies shall be maintained and be readily available in the facility.
 - (1) The supplies shall be maintained and be readily available in the facility.
 - (A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.

- (B) Sterile first aid dressings.
 - (C) Bandages or roller bandages.
 - (D) Adhesive tape.
 - (E) Scissors.
 - (F) Tweezers.
 - (G) Thermometers.
 - (H) Antiseptic solution.
- (d) The following information shall be readily available:
- (1) The name, address and telephone number of emergency agencies, including but not limited to the fire department, crisis center or paramedical unit.
 - (2) The name and telephone number of an ambulance service.
 - (3) It is recommended that residents sign consent forms in advance to permit the authorization of emergency medical care.
- (e) No person, who, within the previous 24 hours, has consumed, used, or is still otherwise under the influence of alcohol or drugs as specified in Section 10501(a)(20), shall be permitted on the premises except for individuals admitted for detoxification or withdrawal. The licensee shall have specific written rules and policies and procedures to enforce this provision.
- (f) Licit medications which are permitted by the licensee shall be controlled as specified by the licensee's written goals, objectives and procedures. Licit medications which have any depressive, stimulative, or any other psychoactive characteristic shall not be used by any resident, staff, volunteer, or other person, and shall not be kept on the premises, except when the medication is prescribed by an individual authorized to do so pursuant to Section 4036, Chapter 9, Division 2 of the Business and Professions Code, and who has full knowledge that the medication is to be used by a person affiliated with an alcoholism or drug abuse recovery or treatment facility.
- (g) Prescription medications which are not removed by the resident upon termination of services shall be destroyed by the facility administrator, or a designated substitute, and one other adult who is not a resident. Both shall sign a record, to be retained for at least 1 year, which lists the following:
- (1) Name of the resident.

- (2) The prescription number and the name of the pharmacy.
- (3) The drug name, strength and quantity destroyed.
- (4) The date of destruction.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01, and 11834.50, Health and Safety Code.

10573. Food Service.

- (a) In facilities providing meals to residents, the following shall apply:
 - (1) The total daily diet for residents shall be of the quality and in the quantity necessary to meet the needs of the residents and shall meet the standards set forth in the "Recommended Dietary Allowances," ninth edition, 1980 adopted by the Food and Nutrition Board of the National Research Council of the National Academy of Science, hereby incorporated by reference, adjusted to the age, activity, and environment of the group involved. All food shall be selected, stored, prepared and served in a safe and healthful manner.
 - (2) Where all food is provided by the facility, arrangements shall be made so that each resident has available at least three meals per day. Not more than 15 hours shall elapse between the third meal on one day and first meal on the following day.
 - (3) Where meal service within a facility is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of (a)(1) above for all residents.
 - (4) Between meal nourishment shall be available for all residents unless limited by dietary restrictions prescribed by a physician.
 - (5) Menus shall be written at least 1 week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the residents and the department upon request.
 - (6) Modified diets shall be provided, if prescribed by a resident's physician as a medical necessity.
 - (7) All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.

- (8) Liquid milk shall be pasteurized. Powdered milk shall be mixed only in proportions specified in instructions on the package.
- (9) Except upon written approval by the department, meat, poultry and meat food products shall be inspected consistent with applicable state and federal laws. Written evidence of inspection as required by law shall be available for all products not obtained from commercial markets.
- (10) Home canned foods from outside sources shall not be used. The following shall apply for all foods canned at the facility.
 - (A) All fruits and vegetables shall be canned in accordance with the standards identified in "Home Canning of Fruits and Vegetables," University of California, Division of Agricultural and Natural Resources, Leaflet Number 21392, dated July 1984, hereby incorporated by reference.
 - (B) All fish shall be canned or otherwise preserved in accordance with "Canned and Freezing Fish at Home," University of California, Division of Agricultural Sciences, Leaflet number 2425, dated June 1981, hereby incorporated by reference.
- (11) If food is prepared off the facility premises, the following shall apply:
 - (A) The preparation source shall meet all applicable requirements for commercial food services.
 - (B) The facility shall have the capability to receive and serve food and to cleanup.
- (12) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (13) Residents involved in detoxification services may engage in food preparation provided their involvement does not pose a risk to their personal safety or the health and safety of other residents.
- (14) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can infect or intoxicate food shall be stored in covered containers at 45 degrees Fahrenheit (7.2 degrees Celsius) or less.

- (15) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.
 - (16) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
 - (17) All kitchen, food preparation, and storage areas shall be kept clean, free from litter and rubbish. Measures shall be taken to keep all such areas free from rodents and other vermin.
 - (18) All food shall be protected against contamination. Contaminated food shall be discarded immediately.
 - (19) All equipment, fixed or mobile, dishes, and utensils shall be kept clean, and maintained in good repair.
 - (20) All dishes and utensils used for eating, drinking and preparing food shall be cleaned and sanitized after each usage.
 - (A) Dishwashing machines shall reach a temperature of 165 degrees Fahrenheit (74 degrees Celsius) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.
 - (B) Facilities not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.
 - (21) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be properly maintained.
 - (22) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the residents.
- (b) The department may require the licensee to provide written information, including menus, regarding the food used over a given period when it is necessary to determine if the licensee is in compliance with the food service requirements in the regulations in this subchapter. The department shall specify in writing the written information required from the licensee.
- (1) Menus will not be required for a period more than 30 days preceding the request made by the department.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10574. Activities.

The licensee shall demonstrate that it provides adequate opportunities for residents to participate in activities consistent with stated goals and objectives.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

Article 4. Physical Environment

10580. Alterations to Existing Buildings or New Facilities.

- (a) Prior to major construction or alterations, licensee shall notify the department of the proposed change.
- (b) The department may require that the licensee have a building inspection by a local inspector if the department suspects that a hazard to the residents' health and safety exists.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10581. Buildings and Grounds.

- (a) Facilities shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of residents, employees and visitors.
 - (1) The licensee shall take measures to keep the facility free of flies and other insects.
 - (2) The licensee shall provide for the safe disposal of contaminated water and chemicals used for cleaning purposes.
 - (3) The facility must be separate and secure. Facility living, sleeping, bathing and toiletry areas shall be enclosed by permanent walls, floors, ceilings and doors.
 - (A) This is not to preclude the use of more than one building in meeting the requirements for licensure.
 - (B) This is not to preclude the use of a wing(s) of a building or floor(s) of a building in meeting the requirements for licensure.
 - (4) Facility access by individuals who are neither residents, facility staff, volunteers, nor authorized visitors shall be limited and monitored by the facility.

- (b) All residents shall be protected against hazards within the facility through provision of protective devices including but not limited to nonslip material on rugs.
- (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.
- (d) General permanent or portable storage space shall be available for the storage of facility equipment and supplies. Facility equipment and supplies shall be stored in appropriate space and shall not be stored in space designated for other activities.
- (e) All in-ground pools and above-ground pools which cannot be emptied after each use shall have an operative pump and filtering system.
- (f) Where female and male residents are housed in the same facility, the licensee shall ensure minimal personal security and privacy which will include but not be limited to the following:
 - (1) Notwithstanding Section 10521 of this subchapter, separate and adequate toilet, hand washing, and bathing facilities for females and males. Such facilities shall be in proximity of designated sleeping areas.
 - (2) Separate and adequate sleeping areas for females and males. Such areas shall be enclosed by permanent walls which extend from the floor to the ceiling and a permanent door.
 - (3) Twenty-four (24) hour staff coverage, notwithstanding Section 10521 of this subchapter.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10582. Outdoor and Indoor Activity Space.

The licensee shall provide indoor and outdoor activity space for residents according to the program goals and objectives.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10583. Storage Space.

- (a) There shall be space available for storage of residents' personal belongings.
- (b) There shall be space available for storage of equipment and supplies necessary to implement the planned activity program.

- (c) There shall be space available for storage of staff members' immediate personal belongings.
- (d) There shall be space available for storage of the facility records specified in this chapter.
- (e) Storage space may be either permanent or portable.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.
Reference: Section 11834.01 and 11834.50, Health and Safety Code.

10584. Fixtures, Furniture, Equipment and Supplies.

- (a) A comfortable temperature for residents shall be maintained at all times.
- (b) All window screens shall be in good repair and free of insects, dirt and other debris.
- (c) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the safety of all persons in the facility.
- (d) Hot water faucets used by residents for personal care shall meet the following requirements:
 - (1) Hot water delivered to plumbing fixtures used by residents shall not be less than 105 degrees Fahrenheit (40.5 degrees Celsius) and not more than 130 degrees Fahrenheit (54.4 degrees Celsius).
 - (2) Taps delivering water at 131 degrees Fahrenheit (54.9 degrees Celsius) or above shall be prominently identified by warning signs.
- (e) All toilets, hand washing and bathing facilities shall be maintained in safe and sanitary operating conditions.
- (f) Solid waste shall be stored, located and disposed in such a manner that will not transmit communicable diseases, emit odors, create a nuisance, or provide a breeding place or food source for insects or rodents.
 - (1) All containers, including movable bins, used for storage of solid waste shall have tight-fitting covers that are kept in place. The containers and covers shall be in good repair, leak proof, and rodent proof.
 - (2) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary to comply with (f) above.

- (g) The licensee shall provide clean linen in good repair, including lightweight, warm blankets, top and bottom bed sheets, pillowcases, mattress pads, bath towels, and wash cloths. The quantity of linen provided shall permit changing, at a minimum, once a week or with greater frequency if needed.
- (h) Adequate bathing, hand washing and toilet facilities shall be provided with the maximum ratio of one facility per eight residents. Space for each resident's toilet articles shall be provided.
- (i) The facility shall provide each resident with an individual bed maintained in good repair, equipped with good springs and a clean mattress and supplied with pillow(s), linen and lightweight warm blankets which are clean and in good repair.

Bunk beds are not excluded provided they otherwise meet these requirements.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.

Reference: Section 11834.01 and 11834.50, Health and Safety Code.

Subchapter 4. Additional Requirements for Facilities Providing Services to Adolescents in Adult Facilities

Article 1. Application and Purpose of Subchapter.

10598. Application and Purpose of Subchapter.

The regulations in this Subchapter shall apply to all alcoholism or drug abuse recovery or treatment facilities which have a waiver or are in the process of obtaining a waiver to provide nonmedical alcoholism or drug abuse recovery or treatment, or detoxification services to adolescents.

NOTE: Authority cited: Sections 11755 and 11834.50, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

Article 2. Waivers to Treat Adolescents in Adult Facilities.

10599. Departmental Authority to Grant Waivers.

The Department may grant a waiver, which will allow a licensed alcoholism or drug abuse recovery or treatment facility to serve adolescents 14 years of age and older, when the licensee documents in writing that:

- (a) A need for such services exists, and
- (b) Adolescent-specific services are otherwise unavailable in the county. Lack of available services shall be supported by a written statement from the county alcohol or drug program administrator of the county in which the facility is located.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10600. Requirement for Waiver.

The licensee shall obtain a waiver from the Department, in accordance with this Subchapter, before admitting or providing services to an adolescent.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10601. Prohibition Against Providing Adolescent Services Without a Waiver.

The licensee shall not admit or provide services to an adolescent prior to obtaining a waiver from the Department in accordance with this Subchapter. The letter, issued by the Department

to approve the waiver, shall stipulate that the licensee may provide recovery, treatment, or detoxification services to a specified maximum number of adolescents, for a specific period of time. The waiver approval letter shall be displayed in conjunction with the license.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10602. Limitations on Capacity.

- (a) Facilities with a total capacity of one to 10 residents may be granted a waiver to serve one adolescent. Facilities with a total capacity of 11 to 20 residents may be granted a waiver to serve two adolescents. Facilities with a total capacity of 21 or more residents may be granted a waiver to serve three adolescents.
- (b) The Department shall not approve a waiver to serve more than three adolescents in any facility.
- (c) Adolescent participation in an alcoholism or drug abuse recovery or treatment facility shall be limited to minors 14 years of age or older.
- (d) Upon approval of a waiver, a male adolescent 14 years of age or older may be admitted to a facility which provides services to male adults only.
- (e) Upon approval of a waiver, a female adolescent 14 years of age or older may be admitted to facility which provides services to female adults only.
- (f) Male and female adolescents may be admitted to a facility which provides services to both male and female adults only when:
 - (1) The licensee has developed and enforces a policy which addresses the following issues:
 - (A) Staff/client, staff/staff, and client/client relationships;
 - (B) Sexual harassment; and
 - (C) Violent assaults;
 - (2) A trained, paid, staff member shall be on duty and awake at all times;
 - (3) The licensee has developed and implemented staff training which identifies areas unique to adolescent growth and development and teaches appropriate responses to the unique needs of the adolescent population to be served;

- (4) The licensee has made provisions for groups which are limited to the gender of the adolescent to be served; and
- (5) The licensee has identified appropriate community resources.
- (g) The licensee shall comply with the criminal records clearance requirements of Article 4 (commencing with Section 10624) of this Subchapter prior to admitting or providing services to an adolescent.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10603. Who May Request a Waiver.

Any applicant for licensure or any licensed alcoholism or drug abuse recovery or treatment facility may request a waiver to provide services to adolescents in accordance with this Subchapter.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10604. Content of Request for Waiver.

The written request for waiver shall include:

- (a) A plan for:
 - (1) Continuing the education of adolescent residents in accordance with state law, and
 - (2) Provision of supervised study time;
- (b) Intake policies and procedures;
- (c) A copy of the admission agreement used for adolescent residents;
- (d) Policies and procedures for removal and/or discharge of adolescent residents from the facility;
- (e) Policies and procedures for disciplining adolescent residents;
- (f) The documentation required in Section 10605; and
- (g) Fingerprint forms for individuals identified in Section 10624, per procedure in Section 10625.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10605. Documentation to be Submitted with Waiver.

The licensee shall attach to the written request for waiver a written statement from the county alcohol or drug program administrator of the county in which the facility is located. The written statement shall document that:

- (a) A need for such services exists; and
- (b) Adolescent-specific services are otherwise unavailable in the county.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10606. Where to Submit Request for Waiver.

- (a) The licensee shall submit the written request for waiver and documentation required in accordance with Section 10605 to the Licensing and Certification Branch, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814.
- (b) Subsequent to the Department's approval of the waiver, the licensee shall maintain on file a copy of the request for waiver.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10607. Departmental Review of Request for Waiver.

- (a) The Department shall review the written request for waiver to determine if it complies with the requirements of this Subchapter.
- (b) The Department shall not approve a waiver prior to approval of a criminal records clearance, pursuant to Article 4 (commencing with Section 10624) of this Subchapter.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10608. Approval of Waiver.

The Department shall approve the request for waiver if it complies with the requirements of this Subchapter, including the criminal records clearance provisions of Sections 10624 through 10632.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10609. Renewal of Waiver.

The Department shall reassess the need for a waiver in conjunction with the extension of period of licensure, as discussed in Section 10529.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10610. Voluntary Surrender of Waiver.

At any time, after submission of the request for waiver, the licensee may voluntarily surrender the waiver by so notifying the Department in writing and returning to the Department the waiver approval letter.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10611. Denial of Waiver.

The Department shall deny the request for waiver if it does not comply with the requirements of this Subchapter, including the criminal records clearance provisions of Sections 10624 through 10631.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10612. Termination of Waiver.

- (a) The Department shall terminate a waiver when Departmental review indicates that the licensee is not in compliance with the requirements of this Subchapter, including the criminal records clearance provisions of Sections 10624 through 10631.
- (b) The waiver shall terminate immediately upon oral or written notification by the Department. The Department shall follow-up oral notification by letter within ten (10) days.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

Article 3. Compliance Requirements.

10613. Admission of Adolescents.

- (a) In addition to the requirements of Section 10566, the licensee shall develop and implement intake procedures.
- (b) At the time of admission, the licensee shall provide the adolescent resident and the adolescent's authorized representative with a written admission agreement which meets the requirements of Section 10581.
 - (1) Within seven (7) days of the resident's admission, the admission agreement shall be dated and signed by:
 - (A) The adolescent resident,
 - (B) The adolescent's authorized representative, and
 - (C) The licensee.
 - (2) Modifications to the original agreement shall be dated and signed by:
 - (A) The adolescent resident,
 - (B) The adolescent's authorized representative, and
 - (C) The licensee.
 - (3) The licensee shall:
 - (A) Retain in the adolescent resident's record the original copy of the signed admission agreement and any modifications, and
 - (B) Provide a copy of the signed admission agreement and any modifications to the adolescent resident and to the adolescent's authorized representative.
- (c) The licensee shall comply with all terms and conditions set forth in the admission agreement.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10614. Consent of Authorized Representative.

- (a) The licensee shall permit any adolescent resident to act on his/her own behalf and shall not require such adolescent resident to have an authorized representative, provided that the adolescent has:
 - (1) Applied for services pursuant to Family Code Section 6929(b), or
 - (2) Been emancipated pursuant to Part 6 (commencing with Section 7000) Division 11 of the Family Code,
- (b) The licensee shall require all adolescents, other than those covered in (a)(1) or (2) of this regulation, to have an authorized representative.
- (c) The licensee shall not detain an adolescent resident against the will of the adolescent's parent, legal guardian, or conservator. In those cases where law permits the adolescent to contract for or consent to treatment without the consent of an authorized representative, the adolescent shall not be detained in the facility against his/her will. This provision shall not be construed to preclude nor to prohibit attempts to persuade an adolescent resident to remain at the facility.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10615. Staffing Requirements.

- (a) An alcoholism or drug abuse recovery or treatment facility granted a waiver to serve adolescents shall provide supervision of adolescent residents by program staff 24 hours per day, 7 days per week. Residents shall not be used to fulfill this requirement.
- (b) The licensee shall comply with criminal record clearance requirements of Article 4 (commencing with Section 10624):
 - (1) Prior to approval of a waiver, and
 - (2) Continuously after approval of the waiver.
- (c) In addition to the requirements of Section 10564, the following shall apply to facilities granted a waiver to provide services to adolescents:
 - (1) The licensee shall ensure that adequate numbers of trained staff are consistently available to provide the services and supervision required and to meet the requirements otherwise identified in this Subchapter.

- (2) All individuals who have supervisory responsibility or frequent or routine contact with adolescent residents shall meet the criminal record clearance requirements of Article 4 (commencing with Section 10624).
- (d) From 7:00 a.m. to 10:00 p.m. there shall be two staff members on site and awake when adolescents are present.
- (e) From 10 p.m. to 7 a.m. there shall be at least one staff member on site and awake.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10616. Development of Needs and Services Plan.

- (a) In addition to the requirements of Section 10566, the licensee shall develop a needs and services plan for each adolescent resident.
- (b) The needs and services plan shall identify:
 - (1) The adolescent's educational needs and the services which will meet those needs, if the adolescent's residency is to exceed 14 days;
 - (2) Restrictions and limitations on visitation with family members and others;
 - (3) Anticipated length of program participation.
- (c) The licensee shall maintain the adolescent resident's needs and services plan in the adolescent resident's record.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10618. Buildings and Grounds.

In addition to the requirements specified in Section 10581(a) through (e), the following requirements shall apply to facilities which provide services to adolescents:

- (a) Only adolescent residents of the same sex shall share a bedroom.
- (b) No adolescent resident shall be required to sleep in a room used for other activities.
- (c) A recreation room shall be available for planned activities, relaxation, and recreation of adolescent residents exclusively.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10619. Discipline Policies and Procedures.

- (a) The licensee shall develop and utilize written policies and procedures regarding the discipline of adolescent residents.
 - (1) The licensee's policies and procedures shall comply with the requirements of this regulation.
 - (2) Facility staff, adolescent residents, and the adolescent residents' authorized representatives shall receive copies of the licensee's policies and procedures regarding the discipline of adolescent residents.
- (b) Acceptable forms of discipline may include:
 - (1) Restriction in an unlocked living or sleeping area;
 - (2) Prohibition against attendance at or participation in planned activities; and/or
 - (3) Prohibition against the use of entertainment devices, such as televisions, radios, cassette recorders, or compact disc players.
- (c) At no time shall discipline violate the personal rights of the adolescent resident, as identified in Section 10569.
- (d) Nothing in this part is intended to interfere with any system which assigns privileges in accordance with program advancement.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10620. Removal/Discharge of Adolescents.

- (a) The licensee shall develop and utilize written procedures regarding removal/ discharge of adolescent residents from the facility.
- (b) The licensee shall not remove or discharge an adolescent resident from the facility unless the licensee has obtained prior written approval from the adolescent's authorized representative for the removal/discharge.
- (c) Nothing in this regulation shall be construed to prohibit an adolescent resident from being removed from the facility under emergency circumstances by an authorized person or agency. Examples of such circumstances include:

- (1) Removal by law enforcement officers when an adolescent resident is arrested;
 - (2) Removal for the health and safety of the adolescent resident;
 - (3) Removal because the continued presence of the adolescent resident represents a threat to the health and safety of others within the facility.
- (d) The licensee shall document in the adolescent resident's record any removal/discharge. Documentation shall include:
- (1) The reasons for removal and/or discharge, and
 - (2) The name and address of the individual to whom the adolescent resident was released and the individual's relationship to the adolescent resident.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10621. Personnel Records.

In addition to the requirements of Section 10565, the licensee shall develop and utilize a dated, monthly time schedule for facility staff and volunteers.

- (a) The schedule shall clearly identify the individuals providing services and/or coverage and the days and hours to be worked.
- (b) The schedule shall be posted in the facility where it is convenient for staff reference.
- (c) The licensee shall keep the monthly time schedules on file for 1 year.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10622. Records of Adolescent Residents.

In addition to the information required in Section 10568, the licensee shall obtain and record the following in each adolescent resident's record:

- (a) The name, address, and telephone number of the adolescent's authorized representative;
- (b) A consent form completed by the adolescent's authorized representative, permitting the facility to authorize medical care;

- (c) An assessment of the adolescent's educational needs, if the term of residency exceeds 14 days; and
- (d) A copy of the adolescent's needs and service plan.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10623. Mandatory Reports.

The licensee shall notify the adolescent resident's authorized representative if the adolescent resident:

- (a) Is removed from or leaves the facility, or
- (b) Is not enrolled in or regularly attending school.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

Article 4. Criminal Records Clearance.

10624. Criminal Record Review.

- (a) All individuals who have supervisory responsibility for adolescent residents or frequent or routine contact with adolescent residents of an alcoholism or drug abuse recovery or treatment facility shall be subject to a criminal record review prior to their involvement in the provision of services to adolescents. Residents shall not be required to meet the requirements of this article.
- (b) The Department shall conduct a criminal record review of all persons specified in Subsection (a) of this regulation and shall have the authority to approve or deny an individual's involvement in the provision of adolescent services based upon the results of such review.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10625. Fingerprinting.

- (a) All individuals subject to criminal record review shall be fingerprinted. Fingerprints shall be recorded on current Application for Employment forms [BID 7 (5/90)] designated by the California Department of Justice. The fingerprinting service utilized shall be secured by the applicant/licensee.

- (b) All current processing fees required by the Department of Justice shall be submitted with completed fingerprint forms by the applicant/licensee to the Department.
- (c) The quality of prints shall be reviewed by the Department prior to forwarding to the California Department of Justice for processing. The Department's quality review process shall be completed within five (5) working days from receipt of the completed fingerprint forms.
- (d) The Department shall return fingerprint forms to the applicant/licensee under any one of the following conditions:
 - (1) The applicant/licensee fails to submit the required processing fee for each completed fingerprint form.
 - (2) The fingerprints fail to meet the quality standards required for processing as determined by the California Department of Justice.
 - (3) Fingerprint forms are incomplete.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10626. Review of Criminal History Summaries.

- (a) Criminal history summaries shall be reviewed by the Department to determine if an individual has been convicted of any crimes specified in Subsections (c), (d), or (e) of this regulation. The Department shall complete this review process within ten (10) working days of receipt of the criminal history summary from the Department of Justice.
- (b) If the review discloses the individual has no record of being convicted for any crimes specified in Subsections (c), (d), or (e) of this regulation, the Department shall approve a criminal record clearance and notify the applicant/licensee within seven (7) working days from completion of the review process.
- (c) If the review discloses the individual has been convicted of or is the subject of any criminal investigation relating to any felony or a misdemeanor perpetrated against a child, the Department shall deny a criminal record clearance and so notify the applicant/licensee within seven (7) working days from completion of the review process. Conviction for any felony or misdemeanor perpetrated against a child, committed outside the State of California, shall be considered a felony or misdemeanor perpetrated against a child, for the purpose of these regulations, if such offense would have been a crime if it had been committed in California. Any individual so convicted shall be permanently prohibited from participating in the provision of adolescent services.

- (d) If the review discloses the individual has been convicted of any alcohol or drug-related crime, a violation of Division 10 of the Health and Safety Code which is also known as the Uniform Controlled Substances Act, the Department shall take the following action:
- (1) For any felony or misdemeanor conviction, within the last 3 years, not perpetrated against a child, the Department shall notify the individual and the applicant/licensee, within seven (7) days of completion of the review process, that the individual is prohibited from being involved in the provision of services at a facility serving adolescents.
 - (2) Notwithstanding Section 10626(d)(1) of this subchapter, a two (2) year limitation shall apply to a conviction for violation of those statutes enumerated in Labor Code Section 432.8.
 - (3) Conviction for a violation or attempted violation of an offense committed outside the State of California shall be administered pursuant to this section if such offense would have been a crime under one of the above sections if committed in California.

NOTE: Authority cited: Sections 11755, 11834.50, and 118135, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10630. Monitoring of Subsequent Conviction Data.

- (a) The Department shall monitor all subsequent conviction data received from the California Department of Justice for individuals with an approved or conditional criminal record clearance.
- (b) Upon receipt of information that an individual participating in the provision of adolescent services has been convicted of a crime specified in Section 10626(c) or Section 10626(d) of this article, or any crime which the Department determines has direct bearing upon the individual's ability to perform her/his responsibilities in the provision of adolescent services, the Department shall notify the licensee. For crimes specified in Section 10622(e), the time limitations specified in Subsections 10626(d)(1) and (d)(2) shall apply.
- (c) Upon notification that an individual has been convicted as specified in Subsection (b) of this regulation, the licensee shall terminate the individual's involvement in the provision of services to adolescents effective the date the Department's notice is received.
 - (1) If an individual is convicted of a crime as specified in Section 10626(c) of this article, the individual shall be permanently prohibited from participating in the provision of adolescent services in accordance with Section 10626(c) of this article.

- (d) The licensee shall notify the Department in writing of any individual with an approved criminal record clearance who ceases involvement in the provision of adolescent services during the previous month by the 15th day of the current month.

NOTE: Authority cited: Sections 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.

10631. Storage of Criminal History Summaries.

All criminal history summaries are confidential and shall be stored in compliance with Article 1 (commencing with Section 700), Chapter 7, Division 1, Title 11, California Code of Regulations.

NOTE: Authority cited: Section 11755, 11834.50, and 11835, Health and Safety Code.
Reference: Section 11834.50, Health and Safety Code.
